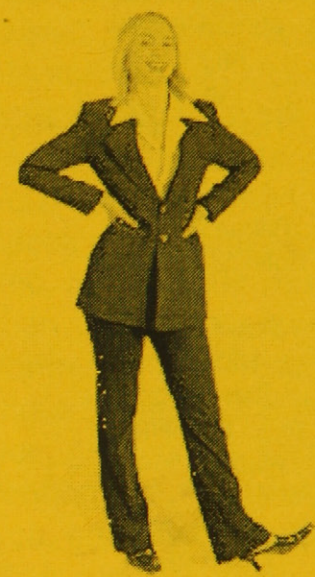


QUID NOVI

McGill University, Faculty of Law
Volume 28, no. 19, March 11 2008

29

MONTREAL RECRUITMENT ISSUE



QUID NOVI

3661 Peel Street
Montréal, Québec
H2A 1X1
(514) 398-4430

www.law.mcgill.ca/quid

Editors in Chief

Cassandra Brown
Andrea Gorys

Managing Editors

Raffaella Commodari
Matt Maloley

Layout Editors

Alison Adam
Sandrina Antohi
Alicia Depraeter
John Lofranco
Martin Rioux

Associate Editors

Bruce Carlini
Jake Hirsch-Allen
Maha Hussain
Ali Khan
Ilia K
Thomas Lipton
Kristin McHale
Julien Morissette
Palma Paciocco
Colin Schulhauser

Staff Writers

Nick Dodd
Ilan Gabizon
Ryan Kirshenblatt
Mathieu Kissin

Web Editor

Owen Ripley

IN THIS ISSUE...

3...Why yes, I am
contemplating a life
in Montreal

4... Le Barreau:
Things they Never
Told Me

4... Lawmericks:
The Recruitment
Generation

6...Confessions of a
Recruitment Drama
Queen

10...What Kind of
Recruitee are You?

12...Dating in the
Facebook Era

15... Third Annual
Conference on Stu-
dent Publishing in
Law

16...The LSA's Free
Speech Problem

19...Law in
Cambodia: Getting
it on our Minds

EDITORIAL

by **Cassandra Brown**
Co-Editor-in-Chief

For some of us, it's an important week. Montreal recruitment is gearing up, and that means some intense days ahead filled with interviews, firm tours, dinners, cocktails and schmoozing in general.

In this weather, I guess I should feel lucky that it's not me worrying about how to navigate 5 foot snow banks in heels and still arrive at the right office on time looking impeccable. Still, I can't truthfully say that I'm completely without envy. Everyone knows that Montreal has a style all its own, and this doesn't stop when it comes to the practice of law - there are different firms, different enjeux and different challenges for potential recruitees. I can't help but be a little bit disappointed that I never had the opportunity to experience it.

As you will see in this issue, many students and professionals are enthusiastic about taking on these challenges, for a variety of different reasons. Andrew

Biteen trots out his most convincing quality-of-life based arguments to keep you around in his article, "Why Yes, I am Contemplating a Life in Montreal". His words echo many an argument that I have heard of late, including one particularly vehement one that ended with the lamentation, "A Premiere Moisson on every corner! Gorgeous cheap renovated apartments in the Plateau! Quiet walks through the park after a (gargantuan) snowfall! How can I be leaving this behind?!"

To soothe the nerves of anyone still worrying about the upcoming recruitment process, I compiled a list of recruitment bloopers committed by McGillians in "Confessions of a Recruitment Drama Queen". You will be relieved to know that all of these anonymous confessions ended up with jobs - and if they can do it, there is no doubt that you can too! For fun, you can also

See Editorial, p 6

The *Quid Novi* is published weekly by the students of the Faculty of Law at McGill University. Production is made possible through the direct support of students.

All contents copyright 2006 *Quid Novi*.

Les opinions exprimées sont propres aux auteurs et ne reflètent pas nécessairement celles de l'équipe du *Quid Novi*.

The content of this publication does not necessarily reflect the views of the McGill Law Students' Association or of McGill University.

Envoyez vos commentaires ou articles avant jeudi 5pm à l'adresse: quid.law@mcgill.ca

Toute contribution doit indiquer l'auteur et son origine et n'est publiée qu'à la discrétion du comité de rédaction, qui basera sa décision sur la politique de rédaction telle que décrite à l'adresse:
<http://www.law.mcgill.ca/quid/epolicy/html>.

Contributions should preferably be submitted as a .doc attachment.

WHY YES, I AM CONTEMPLATING A LIFE IN MONTREAL

by Andrew Biteen (LAW III)

Last Tuesday was a big day for me and my city. First, this publication's redoubtable Albertan editor referred to Montreal as "Central Canada," probably the first time that anyone from west of Kenora got that one right. At last count, I saw four provinces to the right and five to the left of me.

On the same Tuesday, in keeping with the centrality theme, our Dean announced that there would be a panel for those of us contemplating a career in Montreal, featuring the prodigal sons of this faculty: jurists who used to live elsewhere, but have returned to the pastures of Ville-Marie. With 4 law firm partners and a partner from the special effects team behind *Die Hard 4* and *Blades of Glory* (Will Ferrell movie, not the Nintendo game), I imagine that the pastures they now graze are mighty green.

Yet while making money might convince some of you to contemplate careers in Montreal, I'd like to list the non-pecuniary reasons to contemplate living here. I am not organizing a panel, but tend to orate at length on each of these subjects, so just call me up. Below are my own 5 reasons to choose Montreal.

1. Ethnic Strife Done Right (mostly) – 120 years ago, Montreal had 2 groups that were separated by St. Lawrence Boulevard (or Boulevard St. Laurent): The

"we're not-French" and "nous ne sommes pas anglais." Only 120 years before that, they had been at war. Then, in the late 19th century, other groups landed right on the Main, trapped in No Man's Land. What emerged over the next 120 years was the transformation of the battle into a multi-sensory ethnography of smelly foods, loud languages, flashy dances, and thousands of guys in St. Leonard waving flags and honking horns for days after the 2006 World Cup. How else can you explain the social harmony in a city where the best cheap food is Jewish (St Viateur bagels and Smoked Meat Pete smoked meat) and Lebanese (Boustani chicken shawarma) and the best places I can't afford are French (Toqué) and Imperial English (Mount Stephens Club). Rather than race riots or segregated schools as they've had in New York or Toronto, Montreal has the Main Street Festival.

2. Inefficiency (the low crime solution) – In the book *Freakonomics*, Steven Levitt and Stephen Dubner attach the past 25 years' drop in crime in the United States to *Roe v Wade* decision. In Montreal, the ubiquitous inefficiency of public and private workers has done the trick. It's pretty hard to head out and steal a car when the roads haven't been cleared. Likewise, good luck gathering a gang of criminals when that kind

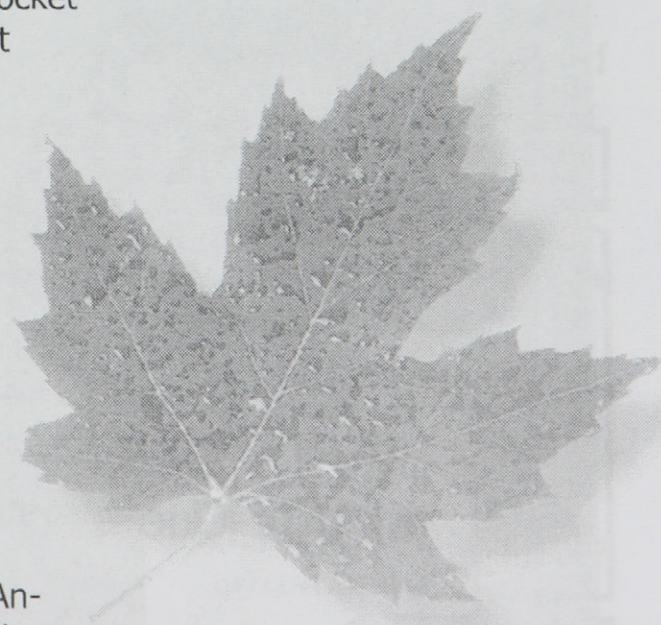
of organization skill would probably over qualify you for most jobs that the Montreal economy produces.

3. Nostalgia on Saturdays (and bitching Sunday-Friday) – If there's one thing that Montrealers do great, it's reminisce on the 1950's Habs, the 1960's nightlife, the 1970's Olympics, the 1980's Expos, and the 1990's collapse of the real estate market and accompanying \$150 rents. While the local AM radio may lament the current state of our sports and cultural scenes, Montrealers generally prefer inconsistent sporting results, a diminishing international stature, and getting shafted by their landlords. It builds what Robert Putnam calls "Social Capital" and he's taught in England and the United States (which, I gather, is where people still contemplating not working in Montreal are looking)

4. Coolopolis.blogspot.com – Now I know you probably think blogs are the pocket protectors of the 21st century (CEGEP students, ask your parents or profs what a pocket protector is). Not long ago, I would have agreed. However, this site encompasses everything that is great about Montreal. History lessons about the good/bad old days; Anglos trying to prove that they are a distinct culture

in a distinct culture (Dorchester Street?); and pictures of old, ugly, run-down buildings that only a Montrealer would fight to preserve (shout out to Goose Village!). On the next sunny day, check out this site and just try to resist the urge to bike around town.

5. It's better than wherever you're from or thinking of going – This is what it really comes down to and once you get over your petty jealousies, you'll realize it too. Montrealers have better style than you, work less than you, live better than you, eat better than you, speak more languages than you, make better music than you, have a lower crime rate than you, win more Stanley Cups than you, get more political attention around Canada than you, and are basically cooler than you. Oh yeah, and we also have partners at our law firms who used to work elsewhere and now work here, presumably by choice.



LE BARREAU: THINGS THEY NEVER TOLD ME

by Francie Gow (ALUM I)

First the bad news: Every terrifying rumour you have heard about the Quebec Bar course is true.

But the good news is, well, that there's good news! I don't know why nobody ever bothered to tell me this. So here it is: an exclusive insider report on le bon côté du Barreau. No, I have not branched off into fiction.

I should make it clear from the outset that my experience is limited to the course offered by the Barreau de Hull at the University of Ottawa. That being said, there should be plenty of carry-over to the other schools.

I am registered in the afternoon class: 1:00 p.m. to 5:00 p.m. each weekday. This means that my current schedule combines the healthy predictability of my

working life with the invaluable flexibility of my student life. Sure, it takes me five to seven hours to prepare each four-hour class, but my meals and sleep patterns are regular, and I have no problem making appointments to see doctors, dentists, bankers, etc. I imagine that this is equally true for the morning students.

Here in Ottawa, we are divided into four sections: two in the morning and two in the afternoon, with about a dozen students per section. Small groups are good for the kind of learning we are doing. Some instructors call on us individually, while others just wait for people to volunteer. Either way, most people participate. We have learned to trust one another not to laugh at our mistakes. This is a must when you have about a 50-50 chance of getting the right

answer and you have to pipe up several times per class.

I don't know whether it is simply because we have been blessed with a string of good instructors, or because we have learned not to care what the instructors think, but I have come to consider my bar classroom a very safe environment in which to make mistakes and learn from them. I recently wrote a tongue-in-cheek article about the benefits of integrating small doses of shame into the learning process, but I have recently revised my opinion.

Getting it right on the first try is not the goal at all. The goal is to assimilate a large amount of detailed material in a relatively short period. Getting it wrong and having a patient instructor (or classmate) help get you

back on track is often a more effective path to the real goal than hitting on the right answer by accident and promptly forgetting it. Sometimes I do get it right the first time, but hearing it explained to another student (or better still, explaining it myself) makes it stick better. It is our collective little failures that help us along, not the shame that we too often associate with them. If we can reap the educational benefits of failure without feeling the shame at all, so much the better!

The Director and staff are competent and friendly. Some of the rules feel draconian and our exam results can be discouraging, but they go out of their way to make sure everyone is treated as equally and fairly as possible. With rare exceptions, our instructors have been excellent so far. Some are law professors with plenty of teaching experience; others are practitioners who know their fields well and are

See Barreau, p 9

LAWMERICKS: THE RECRUITMENT GENERATION

by Stephanie Jones' Admirer (LAW III)

I hoped to find work dans un bon cabinet
But my instincts me disaient "You can't go away!!"
For outside cette province
There is no freaking chance
Que les clients comprendraient mon awful franglais !

Many disciplines. One team.

Ogilvy Renault Student Programs: ogilvyrenault.com/students

OGILVY
RENAULT

LLP / S.E.N.C.R.L., s.r.l.

CONFESSIONS OF A RECRUITMENT DRAMA QUEEN

by Cassandra Brown (LAW III)



Don't feel bad that you forgot the senior partner's name thirty seconds after you heard it - it could be way worse! The following tales of recruitment woe are all true (but shall remain anonymous). Read on for real McGillians' confessions...

"I was already running late for my interview with Dreamfirm LLP when the heel of my shoe got caught in a sidewalk grate outside their building! In my frantic attempt to get it out, the heel broke off! I had to limp inside, find a shoe store and buy a new pair in about 2 minutes!" - *Mortified in Montreal*

"I had seafood from a fast food place for lunch, then headed off to my interview with Favefirm LLP. About 10 minutes into the interview I was so ill that I couldn't respond to the questions that High-Profile-Partner was asking me. I had to ask to please be excused and run to the washroom. I got the job anyway." - *Embarrassed but Employed*

"After talking authoritatively about a certain case in an interview, I realized that it was the wrong case! I had said the name of one case and then recited the facts from another!" - *Belle-Province Blunderer*

"I lost my cell phone about thirty minutes before call time. After a brief frantic search I realized that I must have set it down some-

where inside of the last firm I visited. I had to call the associate who had given me an office tour out of a meeting to take me office to office retracing our steps, until we finally found the phone in Senior-Partner's office. He was also having a meeting, which I had to interrupt to dash in and grab my phone!" - *Forever Forgetful*

"I started my interview with 'what I like about X-firm is...' Unfortunately, I was interviewing at Y-firm!" - *Confused Candidate*

"The firm I wanted hosted a pub night...I brought along my friend so that I would have someone to talk to when I walked in. My friend already had a job, so didn't care about the impression

that he made on this firm. He got wasted and I had to inconspicuously drag him out without the partners seeing that he was with me!" - *Dead-end Friend*

'When asked which parts of Roman Law I enjoyed the most (I had said that it was my favorite class), I accidentally said - 'the recent developments in it!'" - *History Buff-oon*

'I was talking too much at dinner to eat much, and I skipped lunch because I was running late. I didn't realize this until I felt sick after two glasses of wine - and had to run out of an event into a taxi because I was so sick!" - *Unhealthily Unfed*

Editorial, Contd.

check out Alison Glaser's-recruitee typologies to see if you fit into one of the categories more obviously thananother (first years, you can consider this exercise practice for your civil law property final).

As for any fears of more medium term consequences resulting from your decision to practice law in Quebec - I refer in particular to the dreaded Barreau - hopefully they will be much alleviated by Alumnus Francie Gow's positive testimonial of her experience at Quebec Bar School to date.

Best wishes to everyone in the process. If nothing else, I hope that reading this issue affords you a few moments of distraction as you are waiting around between interviews.

To everyone else, please wish your recruiting friends good luck - after all, you either already benefitted from your friends' support while you were recruiting, or you're going to appreciate it when you are conducting your job hunt in the future.

BLG
BANDER
LASHES
CENSO

IT BEGINS
WITH
SERVICE

HEENANBLAIKIE.COM

MONTREAL

TORONTO

VANCOUVER

QUEBEC

CALGARY

SHERBROOKE

OTTAWA

TROIS-RIVIÈRES

VICTORIA



The best workplace is where you'll find the best people

Everyone at Heenan Blaikie has always worked hard to help build a workplace where people can learn, laugh, grow, and most of all, perform.

We're very proud of our team of more than 1,000 lawyers, managers and employees. It is their effort, every day, that makes Heenan Blaikie one of the "Best Workplaces in Canada".

Heenan Blaikie

Heenan Blaikie LLP • Lawyers | Patent & Trade-mark Agents

Barreau, Contd.

committed to helping the next generation ease into the profession. Their patience for answering our questions is without limit. Another pleasant surprise is the quality of the course materials.

Instead of being pulled in every direction, as we are during the degree, at the Bar we do not have to waste time deciding which subjects to prioritize in a given week. There is a certain amount of material to get through each day, and you just get to it. It's a bit like travelling through Eu-

rope at lightening speed on an organized tour (if it's Tuesday, this must be Family Law), but it helps to keep us focused. This approach is also what gives us that "forest" perspective I wrote about not so long ago. It is a relief to see that it all fits together. Well, maybe not perfectly, but at least more neatly than we ever suspected in first year. At McGill I gradually gained confidence in my ability to conquer courses; at the Bar, for the first time, I am gaining confidence that I am indeed capable of practising law if I want to.

The substantive law days, which make up the bulk of

our program, are interspersed with hands-on, pass-fail workshops in drafting, negotiation, consultation and pleading. These used to scare the pants off me. Now that I have done a few, I see them as a welcome change of rhythm. They generally cover the areas of law that are freshest in our minds, so that we are not struggling to remember legal concepts while simultaneously trying to master interview techniques. I was afraid that writing in my second language would be a problem, but we have plenty of examples at our fingertips. There is little pressure, lots of guidance, and the feeling

that we are actually improving as we go along. We laugh a lot.

Lest you start believing that I'm actually having a good time in here, I should state for the record that this is the hardest, scariest, most gruelling thing I have ever done, and I can't wait to have my life back. I just want to take my 60 points and run, and I live in cold fear of finishing with a 58 or 59. But I won't dwell on that right now. If you are thinking of signing up for the Barreau, the bad news is sure to find you without my help.



Women and the Law Issue

March 18, 2008

Submit Articles Today!

WHAT KIND OF A RECRUITEE ARE YOU?

by Alison Glaser (LAW III)

Ahh recruitment. I have just started this joyous experience this week and am looking forward to daily panty-hose wearing and lots of schmoozing. I honestly did not really think about recruitment much for my first few years here, but it seems to me there are certain types that are going through this process right now. They are:

1) The "I've Been Waiting My Whole Life for This!" Type

These people came to law school to get a job in a firm. They love the idea of work-

ing a lot and being in a suit every day excites them. Speaking of suits, theirs have been ready since September in anticipation of Course aux Stages. When they talk about working in corporate law, they glow. They are very happy right now and will become great lawyers.

2) The Willy-Wallies

These people came to law school for some reason or other, or maybe they actually didn't have a reason but they finished their undergrad and thought "huh, what now?" and law

seemed like as good a choice as any. They have enjoyed their studies, a few areas are appealing, but they are really not entirely sure what they want to do next. Since they are not sure, they figure they'll work somewhere that can expose them to a lot of different things and pay their Barreau fees. These people are a little bit overwhelmed right now.

3) The Save-the-Worlds

These people came to law school to save the world. They have been active participants in the Human

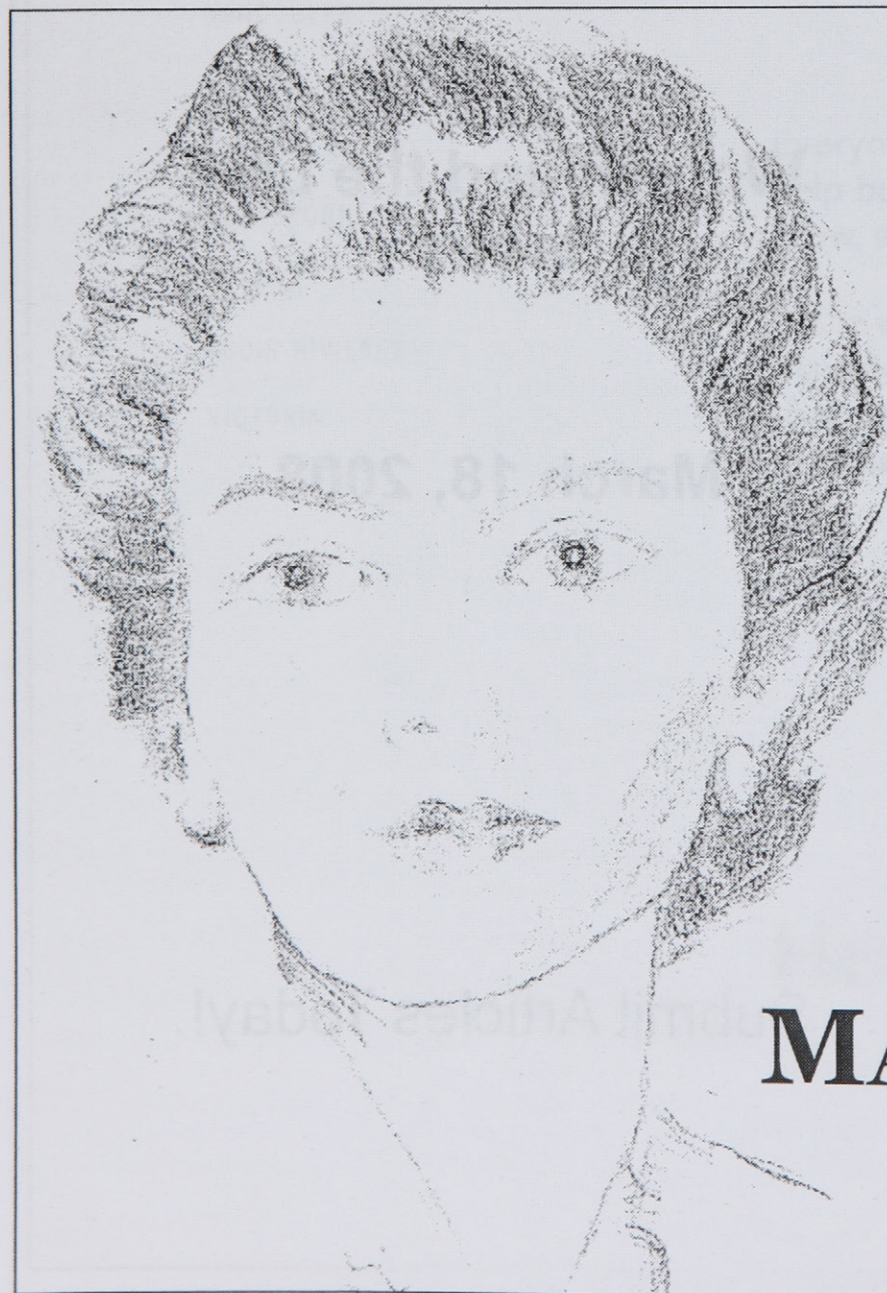
Rights and Environmental groups. They are passionate and articulate about what they love. They are applying to law firms for one of several reasons: The firms they chose have some public or environmental law sections and they figure, hey, I can save the world and be paid at the same time; they want to get some experience in the corporate world so they can be secure in their decision to reject it later on and be content with the subsequent salary cut; they have become totally disillusioned with world saving and recruitment just seems so much, what's the word...easier. They are a bit grumpy right now.

4) The Recruitment Sluts

These people love interviews. They love seeing what's out there. They go through every single recruitment session just to make sure that the job they choose is absolutely the best they could get. Unfortunately, you do not know these people because they have not been in a single class since first year Toronto recruitment. These people are very happy right now, not that you'd ever notice.

But really, no matter what, I am fully confident that we will all end up doing something that is interesting and worthwhile and personally fulfilling. So, bonne chance a mes collègues pour la course aux stages, don't forget to sleep and eat, and maybe go to class every once in a while. I hope you all get the dream job.

Editor's note: Alison declined to comment on which type of recruitée she is.



WOMEN AND THE LAW ISSUE

MARCH 18, 2008



CDO

CAREER
DEVELOPMENT
OFFICE

DROIT MCGILL LAW

Presentation on Diversity in the Legal Profession

WEDNESDAY MARCH 19, 2008

12:30- 2:00PM

NCDH 102

Featuring a presentation by: **Me Tamara Thermitus,**
Counsel at the Department of Justice Canada;

President of the Committee on Cultural Communities
at the Barreau du Québec;

President of the Ethnocultural Committee
of the Barreau de Montréal

&

Question & Answer Period with various representatives from
Montreal Law Firms and Student Clubs

DATING IN THE FACEBOOK ERA

by Stavroula Papadopoulos (LAW I)

It was really nice meeting you. So...could I Facebook you sometime?" And they say chivalry is dead. If typing a girl's name in a search bar and adding her to your intimate 300-plus group of friends is not romantic, then I don't know what is.

The popularity of Facebook is changing the rules of the dating game. For the few people like me who categorically refuse to buy a cell phone, Facebook has its obvious advantages. On the down side, it's likely much easier to remember seven digits than the correct spelling of my name (or even just my name, for that matter). Nonetheless, Facebook is the dating way of the future and a girl will ever after be left to answer the same timeless question: "should I confirm, ignore, or limited-profile him?"

The answer is more obvious

for some than for others. First, there are those whom you don't entirely remember meeting and you're certain you never told them your name, but somehow they found you. Though they get an A+ for their investigative efforts, they ultimately fail because of their borderline stalking tendency. Then, there are those whom you were properly introduced to and they eventually said: "I'll add you on Facebook." And with those fervent words, they swept you off your feet.

So you let them into your virtual reality. Two possibilities present themselves: they can either send you a message and create a confidential bond, or they can join the majority (i.e. friends you never talk to and eventually become unaware of their existence until the day they post their wedding pictures on Facebook and you happen to run

across them in your News Feed.) If the latter happens, at least you'll know when to stop considering sending them a message suggesting to go for coffee.

The most interesting aspect of Facebook is that you can cover all the first date conversation material from the comfort of your home. In fact, you can decide whether or not to go on that date based on what the person's profile has taught you. Granted that there is more to people than what they post on Facebook, since the information posted is purely voluntary, certain thresholds can be established. If the best you can do with your Favourite Quotes section is: "get rich or die trying" then we can't be friends.

This pre-emptive refusal is only speeding up an otherwise costly and time-consuming process of getting to

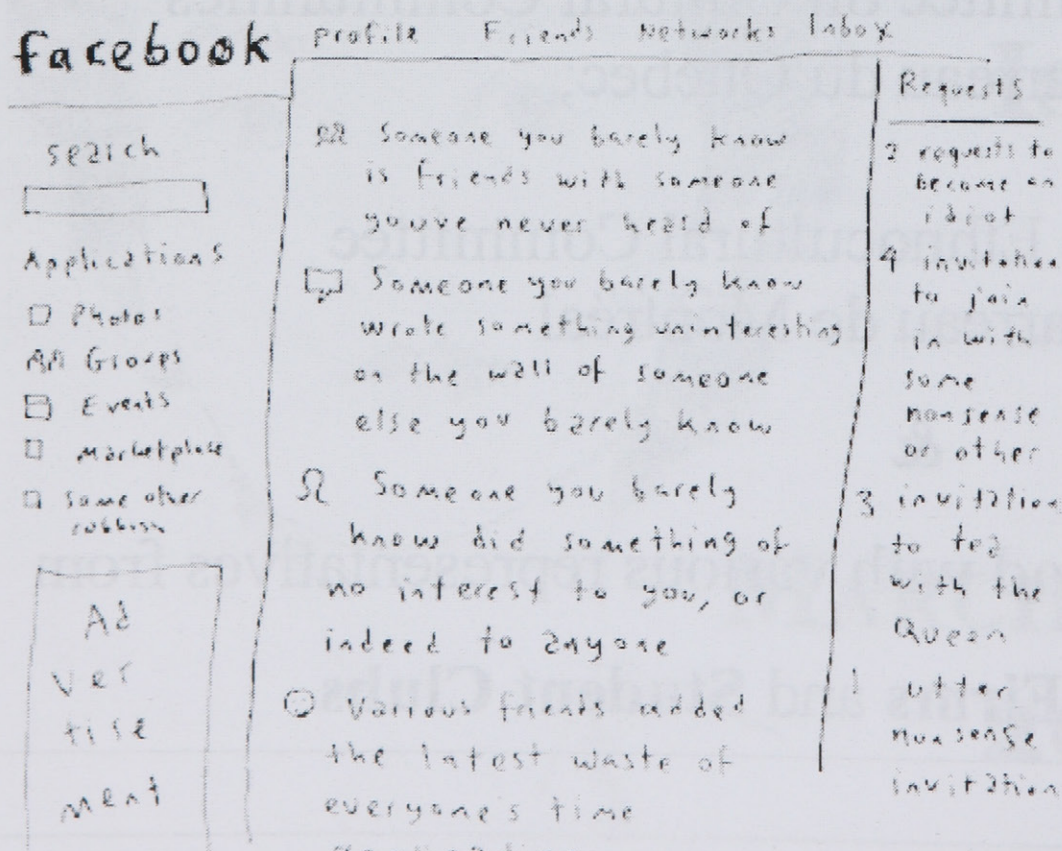
away from the process of getting to know someone, from the mystery of meeting new people. Others think it just saves much needed time in our fast-paced society. A word of warning to Facebook keeners though: if you chose to pick-up with a click of the mouse, you must be prepared to get rejected just as easily. The traditional (gendered) story goes something like this: boy meets girl, boy adds girl on Facebook, boy's friend request is ignored. No closure, no explanation, no opportunity for the innovative "it's not you, it's me" defence. The rejection is as virtual as the intention to pursue something.

If you can end a first date with a decision to dodge any future calls, why not make any future contact impossible by blocking a Facebook friend? Is removing a friend any harsher than pretending not to hear your phone?

Are awkward silences a necessary part of getting to know someone? Is a one-liner any more effective than a Poke? Facebook is yet another way we're taking out the "touch" from "keeping in touch." It boils down to a fundamental question: how much do we really value direct human contact? At the end of the day, keeping your Relationship Status alive may require more face-to-face and less Wall-to-Wall.

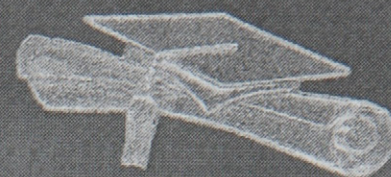
know how incompatible you are. The end result is inevitably the same. As helpful as this technique may be to scan candidates, it also bears a serious risk: your first date may ultimately be boring and awkward if you can finish each other's sentences with "yeah, I saw your pictures of that."

Some argue that Facebook takes





Many thanks to the Dean's Discretionary Fund for its generous contribution



Graduation Ball 2008

Come out and celebrate your remarkable achievement...
We promise an evening of elegance, class and entertainment!

It's all Obiter, Baby!

Friday, April 11th, 2008

Hotel Omni Mont-Royal
1050 Sherbrooke St. W.

Cocktails 7pm-9pm
Dancing 9pm-2am

Questions? E-Mail gradball2008@gmail.com

Tickets \$55.00

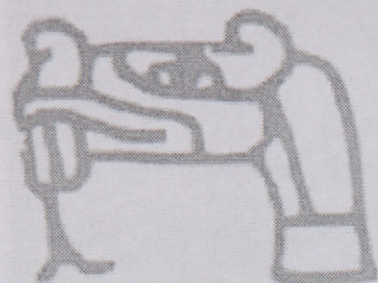
On sale as of March 18th

Join us for:

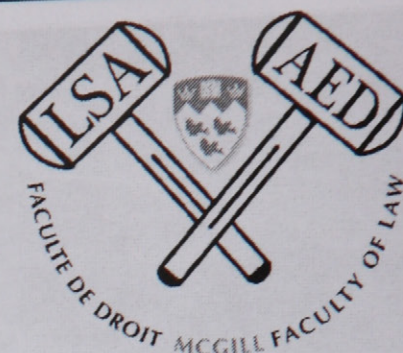
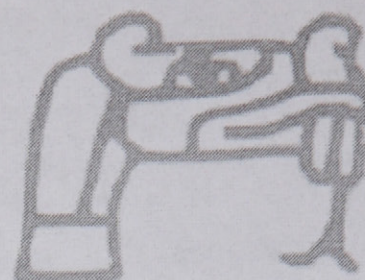
- Special Guests
- Door Prizes
- And More!

Dress: Semi-Formal





LALSAs
AEDLA



Latin American Legal Studies Association (LALSA)

Association d'études en droit latino-américain (AEDLA)

Asociación para el estudio del derecho latinoamericano (AEDLA)

presents / présente / presenta

as part of the Conference Series on Latin American Law
dans le cadre de la Série de conférences sur le droit latino-américain
en el contexto de la Serie de conferencias sobre el derecho latinoamericano

The Inter-American System for the Promotion and Protection of Human Rights

Le système interaméricain de promotion et protection des droits de l'homme
El sistema interamericano de promoción y protección de los derechos humanos

Panel discussion / Table-ronde / Mesa redonda*

Luis Toro Utillano

Office of International Law, Organization of American States – Legal Advisor

Olger I. González-Espinoza

Inter-American Court of Human Rights – Staff Coordinator Attorney

*Presentations will be given in the presenter's language of choice.

Wednesday, March 19th, 5pm

McGill University Faculty of Law, Chancellor Day Hall, 3644 Peel Street, Moot Court

A cocktail will follow in the Atrium.

<http://lalsa.mcgill.ca>

THIRD ANNUAL CONFERENCE ON STUDENT PUBLISHING IN LAW

by Joshua Krane (LAW IV)

Last week, I had the privilege of attending the University of Toronto Faculty of Law Review's Third Annual Conference on Student Publishing in Law. Since 2006, the Conference has become an annual event, held in February at U of T. The Conference brings together practitioners, academics, and student presenters eager to publish their first articles in a scholarly journal.

This was my second opportunity to participate at the Conference. I went to my first conference in 2006 as a student author. This year, I participated as a panelist, moderator, and guest speaker.

The 2008 edition of the Conference featured papers dealing with penalty clauses in contract law to using anti-terror legislation to promote Canadian corporate social responsibility abroad. It welcomed student presenters from the U of T, Osgoode Hall, Queen's and the University of Ottawa. A highlight of the event was a talk by Professor Peter Hogg in the Faculty lounge on comparative constitutional law and the role that a justification clause can play in the legislative process.

The Conference has become such a success not only because of the creativity of student research and writing, but because of democratic administration of the

Law Review. The Law Review's editorial staff is quite large. It includes around 100 students with different academic interests and personalities.

The Law Review also prides itself on giving detailed comments back to the student authors who are often learning how to polish a paper submitted for credit into a full-fledged academic publication. They regard their review work as part an exercise in public relations.

By hosting the Conference each year, the editors also actively engage with many of the authors who publish in their journal. This gives the authors a chance to participate more actively in the publication process, and allows them to respond to some of the criticism of the external reviewers. The authors also gain intimate insights into the editorial process.

The Law Review accepts papers on a variety of topics from authors who would otherwise not have a forum to publish in because of their student status. It provides a first step for young scholars who are looking to spread their ideas about the law (or justice) to the academic and practice communities. Articles in the Law Review have been cited by the Supreme Court (among other courts) and are available, along with articles in other national law reviews, on Quicklaw and Carswell

too.

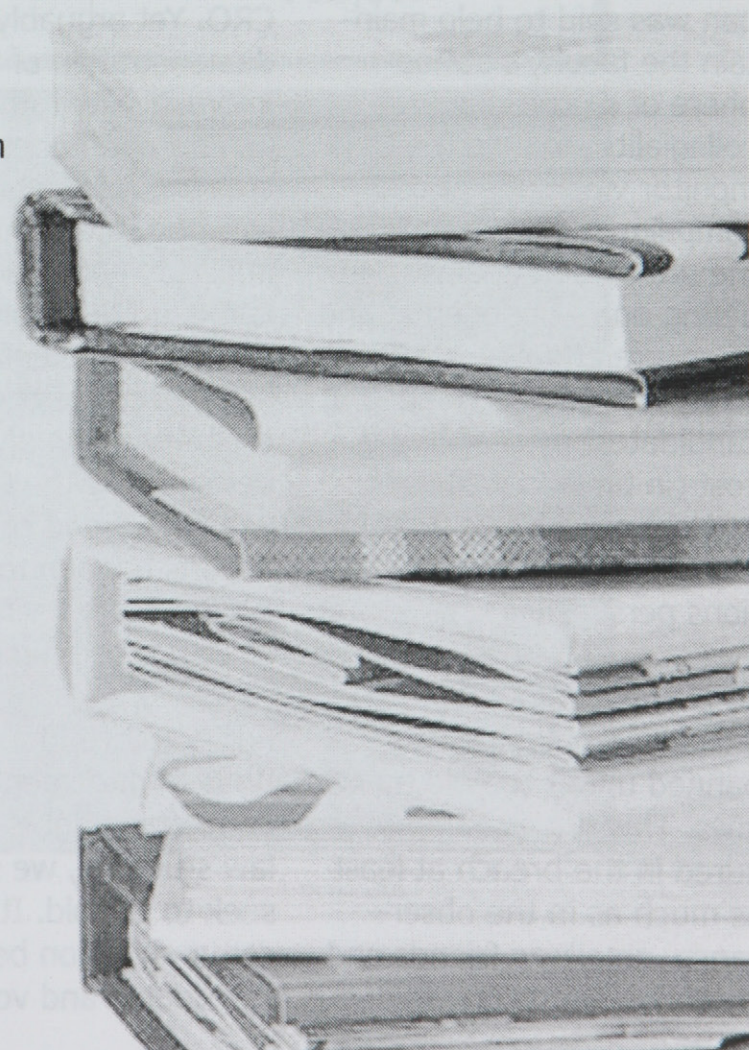
For me, the benefits of my initial (and continuing) participation in the Conference have been significant. As with any first attempt at a writing endeavour, be it a legal memo, a factum, or a scholarly article, the first attempt is often the most difficult and time consuming. But, with time and practice the process becomes easier. I have noticed now that the turn around time from drafting to publication has become much shorter and that I have overcome many of the technical difficulties (proper formatting, citation, word choice) which made the process so difficult for the first article.

The Conference also reinforced the importance of peer-to-peer review, which is a function of dialogue between the reviewer and the writer. It often takes someone to ask the question "what is this paper all about?" for the writer to step back and realize that she or

he has not clearly articulated the argument in digestible sound-bytes.

hesesound-bytes include a coherent thesis statement, point-first topic sentences, and a conclusion which situates the argument within the literature, confines the scope of the paper, and poses questions for future discussion.

For anyone who wants a good chance to take a paper to publication or who just wants to become a better writer, I encourage you to participate in next year's Conference. I expect that the Faculty of Law Review's Conference on Student Publishing in Law will, for a long time, be a lively annual event.



THE LSA'S FREE SPEECH PROBLEM

by Leonid Sirota (LAW III)

An updated set of by-laws has been discussed and adopted by the LSA Council at its last two meetings. Among other provisions, the new by-laws prohibit any use of the Internet (including email and Facebook) for the purposes of campaigning for LSA elections. The only exception will be a single online group or discussion forum why the Chief Returning Officer (CRO) may create, maintain and supervise. I believe that the ban on online campaigning is a serious limitation of our freedom of expression and right to democratic participation. The ban should be reversed.

A number of justifications were advanced for the ban of online campaigning. The ban was said to help maintain the faculty's atmosphere of cosiness and collegiality; to help the CRO monitor violations of other campaigning rules, such as the prohibition against slandering one's opponents; and to ensure equality of opportunity among the competing candidates, by reducing the cost (in time as well as money) of campaigning. I find none of these justifications persuasive.

To put things into context: online campaigning was banned under the old by-laws. This rule was honoured in the breach at least as much as in the observance, emails to friends and Facebook status updates

being routinely used to promote one's candidacy. Its inadequacy was demonstrated, in my opinion, in the *Shee v CRO J-Board* case, which should have proved once and for all that a ban was untenable and would inevitably be broken. In 2008, banning online communication, for any purpose, is about as practical as outlawing snowstorms.

In defence of the ban, its supporters argue that the apparently strict and rigid rules will only be selectively enforced, so as to avoid extreme applications. For example, a candidate emailing his friends to encourage them to vote for him will not be sanctioned since this apparent violation of the campaigning rules will probably not be reported to the CRO. Yet arguably, this is a demonstration of the ban's impracticality rather than of its appropriateness. Indeed, creating rules which those to whom they apply will be implicitly encouraged to violate is quite absurd. In addition, selective enforcement of rules creates potential for arbitrary or simply random decisions by the CRO, for example if one candidate's actions happen to be reported but not similar ones by his or her competitor.

Furthermore, the ban is serious infringement on our democratic rights which, as law students, we should seek to uphold. It impedes communication between candidates and voters,

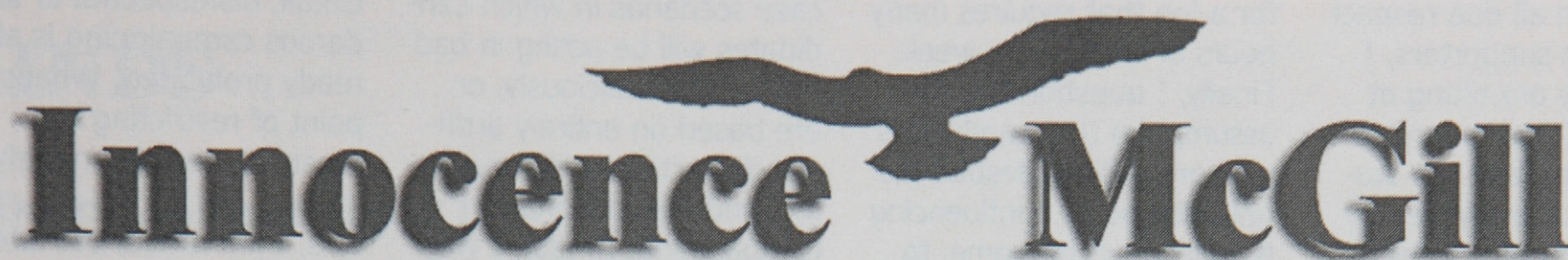
which should be as free as possible if the LSA elections are to be genuinely democratic. As most, if not all of us, rely on the Internet for a substantial part of our everyday communications, especially with people we cannot reach or meet in person, banning its use for election campaigns is a severe limit on our freedom to communicate and thus to express ourselves. In particular, it prevents candidates from explaining their platform in any detail to most of their constituents with whom they do not attend classes and whom they do not have the time or the opportunity to meet in person – which means of the student body, especially since a campaign only lasts three days. It denies the opportunity to make an informed decision to those students who are unable to be at the faculty during those three days – such as those who are away on exchange and who can take part in the elections thanks to online voting. It thus favours a campaign based on name recognition (which can be especially unfair to first-year candidates running against upper-years) instead of actual issues.

In the name of what high ideals are we to accept these strict limits on our freedom of expression? A first justification advanced by the ban's supporters is the need to maintain the faculty's atmosphere of collegiality and friendliness. Yet it is not at all clear how the candidates' ability to communicate their platforms to voters would undermine this atmosphere. And even assuming that using internet will allow candidates to engage in more vigorous de-

bate, it does not follow that such debate will not be respectful and that it will damage the faculty's cozy atmosphere. Besides, as the first-year elections last fall demonstrated, a ban on internet campaigning does not guarantee absence of acrimony or prevent bitter divisions.

A second argument in support of the ban, related to the preceding one but more specific, is that prohibiting online campaigning will help the CRO monitor and punish violations of campaigning rules, including that prohibiting slander against one's opponents. An obvious practical flaw in this argument is that if a violation occurring on the internet, for example in an email not received by the CRO, is not reported, it will not be punished. Thus the ban, while limiting the freedom of expression of those candidates willing to play by the rules does not do much to stop those willing to flout them. On a more philosophical note, I am deeply troubled by the presumption, implicit in the ban supporters' argument, that online campaigning will be used for illegal purposes often enough to justify its complete prohibition. Good faith, I thought, was presumed in Quebec – and this presumption should be all the stronger in our collegial and friendly faculty!

A final argument made in support of the ban is that it is necessary to ensure the fairness of LSA elections. It is said that the prohibition of online campaigning will prevent candidates from gaining an undue advantage from spending substantial amounts of time and money on campaigning, including



Innocence McGill

Dealing With Wrongful Convictions

Speakers' Series

Please Join Us

Wednesday, March 12, 2008

12:30-2:30pm

Faculty of Law, McGill University

3644 Peel Street

Room 100 NCDH (Moot Court)

Speakers:

Joyce Milgaard

*Mother of wrongfully
convicted*

David Milgaard

Alan Young

Director

Osgoode Hall Law School

Innocence Project

Olga Akselrod

Staff Attorney

New York Innocence

Project

What Is Innocence McGill?

Innocence McGill is a student-led endeavour centered at the Faculty of Law of McGill University. It is run under the supervision of faculty members and prominent criminal lawyers, and is dedicated to researching and investigating claims of wrongful conviction in the province of Quebec. Our ultimate goal is to help secure the freedom of those who are factually innocent of serious crimes for which they continue to serve sentences in Quebec prisons.

For more information on Innocence McGill, please visit our website at www.mcgill.ca/innocence/.



building sophisticated websites to promote their candidacies. With all due respect to the ban's supporters, I believe they are tilting at windmills. I find it hard to believe that many law students would be swayed by the fanciness of a website rather than by a candidate's platform – if, that is, candidates are given the chance to articulate their platforms. I also find it hard to believe that many candidates would bother investing disproportionate amounts of time, much less money, into campaigning. The likely instruments of an online campaign, such as a Facebook group or a few emails are free and require not more than a few minutes of work. If a candidate is not

willing to take those few minutes, he or she is not fit for a job that requires many hours of work every week. Finally, I question the very assumption that candidates who are willing, despite the unlikelihood of it influencing the election's outcome, to spend their time and money on websites are engaging in a practice so unfair it must be prohibited. If candidates want to spend money on fancy posters, the by-laws do not prevent them from doing it. If they want to skip class in order to talk to more prospective voters, they are free to do it. How is campaigning online more unfair?

The arguments in favour of the ban on online cam-

paigning are unconvincing. They either assume worst-case scenarios in which candidates will be acting in bad faith if not maliciously, or are based on entirely artificial distinctions between online and conventional campaigning. In fact, I wonder whether the real motivation of at least some of the ban's supporters is not a visceral hostility to the freedom promised by the internet. "You cannot just have no rules at all," I was told. Fair enough. Which is why subs. 3.2 of By-Law 9 provides that "[c]andidates will conduct a fair campaign that respects their opponents. This includes, but is not limited to, refraining from interfering with the distribution of campaign

material and engaging in slanderous campaigning." Unfair, disrespectful or slanderous campaigning is already prohibited. What's the point of restricting the means to campaign fairly?

It is, I am afraid, too late now to organize a referendum to change the by-laws in time for the upcoming elections. However, if you care about freedom of expression within the LSA, you might want to ask the candidates where they stand on this issue. While it should not be the only one on which you base your choices, it is, I believe, a legitimate and indeed a fairly serious one, which you should consider.

RECIPES FOR WELL-BEING COOKBOOK

The Student Well-Being Committee will be publishing its second annual Cookbook in time for exams. But we can't do it without your help!

Please submit your favourite recipes to wellbeing.mcgill@gmail.com. We are looking for dishes that are healthy, fast, easy or comforting.

Students can access last year's cookbook, "Healthy recipes for Busy Times," at the following website: www.mcgill.ca/files/law-studies/Well-being_Cookbook.pdf.

Do you have questions? Please contact Natalie Haras or Aryana Rousseau.

wellbeing.mcgill@gmail.com

LAW IN CAMBODIA: GETTING IT ON OUR MINDS

by **Dustin Milligan (LAW II)**

Cambodia used to be in the news every day. Southeast Asian communism combined with the civil war and genocide ensured that Cambodia got plenty of attention from the West in the 1970s and 1980s. Yet these days, aside from periodic updates on the Khmer Rouge tribunals, Cambodia is not on our minds.

Not that it shouldn't be on our minds, particularly for us law students. Cambodia is an extreme case study in the failure of the rule of law in a post-conflict nation. Since the 1991 Paris Peace Agreement, which brought an end to the civil war, President Hun Sen's government has become a highly successful "kleptocracy" in which institutionalized corruption, human rights abuses, and impunity is normal and accepted. The corrupted behavior of higher-ups in the government has a trickle-down effect such that the lowliest civil servants expect bribes too. I even had to slip a "donation" to the clerk at the Ministry of Transportation to get my driver's license.

But let me focus this discussion more in a way that has special resonance for us: the court system is hopelessly compromised by corruption and total manipulation of the law. Judges yell at defendants and intimidate witnesses.

They regularly accept bribes from the party with the highest offer. They prevent defense counsel from cross-examining the prosecution's witnesses. They answer their cell phones in the middle of court proceedings. They allow clearly fabricated

working at local NGOs. It has stated that NGOs employing lawyers must sign a memorandum of understanding with the Bar, thus giving it a measure of de facto control over lawyers' terms of employment. The Bar's representatives have

pri-

be a risky proposition. Working on sensitive public interest issues that may implicate government officials carries a threat of sanction from the Bar or even possible disbarment.

From this perspective, Cambodia should be in the news, or at least it ought to be on our minds. As law students, we know that while our own justice system has its own set of problems, it is largely corruption-free. We can work where we want to, and we can select the issues on which we want to work. We know that the Canadian Bar Association has our profession's best interests in mind and that it has a standardized process for sanction in the event of lawyerly misconduct. And we know that our government will usually obey the rule of law. The situation in Cambodia throws our own legal system into relief and reminds us of how law is—or is not—respected elsewhere in the world.



documents to be entered into evidence. And perhaps most baffling of all, many judges don't even have a proper legal education.

The legal profession, too, is also hopelessly compromised in its own way. Recently, the Cambodian Bar Association, a statutorily enabled regulatory body, has subtly intimidated lawyers

vately threatened lawyers who work at NGOs on politically sensitive cases that expose government corruption or human rights abuses. Finally, one of the Bar's members is President Hun Sen himself—even though he has no more than an elementary school education, let alone a law degree. For Cambodian law students and lawyers, then, employment in the NGO sector can

hrwg



PICTURE YOURSELF WITH US

Michèle Denis
Director of Student Programs
(514) 397-3073
mdenis@stikeman.com

www.stikeman.com

STIKEMAN ELLIOTT

STIKEMAN ELLIOTT LLP